



**CREBAI**  
PRESENTATION  
ON  
REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016  
WITH SPECIAL REFERENCE TO  
ESTATE AGENTS  
on 9<sup>th</sup> April 2016

By  
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## DUBAI

# “Dubai Law No.16 of 2007 establishing the Real Estate Regulatory Agency”.

### Objectives.

- ▶ Proposing the necessary Legislation to regulate the work of Real Estate Brokerage offices and Owners' Associations.
- ▶ Issuing Regulations for transactions and certification of Real Estate Brokerage offices.
- ▶ Licensing of activities including Real Estate developers.
- ▶ Accrediting banking and financial Institutes to manage accounts of Real Estate Developers.
- ▶ Licensing and regulating Real Estate Brokerage offices and monitoring and overseeing their activities.
- ▶ Licensing and regulating Companies which manage Real Estate and residential developments.
- ▶ Monitoring the activities of Owners' Associations.
- ▶ Keep a track of property advertising.
- ▶ Providing support and advice on property valuation.
- ▶ Preparing statistical reports and carrying on research on Cities on the Property Market.
- ▶ Preparing programmes that enhance the rights of nationals in the Real Estate Sector.
- ▶ Implementing education awareness programmes.

# UNITED KINGDOM

- ▶ **Leasehold Reform, Housing and Urban Development Act.**  
An Act to confer rights to tenants of flats and houses and to provide for auditing the management of landlords and for the approval of Codes of Practice.
- ▶ **Estate Agents Act, 1979.**
- ▶ **Property Misdescriptions Act, 1991.**
- ▶ **Consumers, Estate Agents and Redress Act, 2007.**
- ▶ **NHBC (National Housing Building Council).**
  - ▶ Created in 1936 to tackle substandard building practices following Government slum clearances. This was a voluntary venture into self regulation and consumer protection by the Industry.
  - ▶ An approved house registered builder inspects and certifies new houses as being fit.
  - ▶ Influences legislation.
  - ▶ Publication of NHBC Standards, relating to construction specifications. Developers give 10 year building warranty. This has been copied in countries such as China, S.Africa, Holland, Canada and USA.

# TIME FRAMES

- ▶ Assent of President of India received on 25<sup>th</sup> March, 2016.
- ▶ Sec.84. Appropriate Government to make Rules within 6 months of the commencement of this Act.
- ▶ Sec.20. Appropriate Government shall, within one year from the date of coming into force of this Act, establish Real Estate Regulatory Authority,
- ▶ Sec.43. Appropriate Government shall within one year establish “\_\_\_\_\_ (Name of State) Real Estate Appellate Tribunal”.
- ▶ Sec.85. Authority to make Regulations consistent with the Act and Rules within 3 months of its establishment.

# SCHEME OF THE ACT

- ▶ Sections 3 – 8. Registration of Real Estate Projects.
- ▶ Sec.9 – 10. Registration & functions of Real Estate Agents.
- ▶ Sec. 11 – 18. Functions and duties of Promoter.
- ▶ Sec. 19. Rights and duties of allottees.
- ▶ Sec.20 – 40. Real Estate Regulatory Authority.
- ▶ Sec.41 – 42. Establishment of Central Advisory Council.
- ▶ Sec.43 – 58. Real Estate Appellate Tribunal.
- ▶ Sec.59 – 61. Penalties on Promoter.
- ▶ Sec.62. Penalty for non-registration and contravention of sec.9 and 10 by Estate Agent.
- ▶ Sec.62, 65 & 66. Penalty specifically on Estate Agents.
- ▶ Sec.59 – 72. Other provisions relating to Penalties, etc.
- ▶ Sec.79. Bar on jurisdiction by Civil Courts.
- ▶ Sec.80. Cognizance of offences.
- ▶ Sec.92. Maharashtra (housing and Development) Act repealed.

# REGISTRATION OF REAL ESTATE AGENTS

“Sec.9.

- (1)** No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.
- (2)** Every real estate agent shall make an application to the Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed.”

# REGISTRATION OF REAL ESTATE AGENTS

- “(3) The Authority shall, within such period, in such manner and upon satisfying itself of the fulfilment of such conditions, as may be prescribed –**
- (a) grant a single registration to the real estate agent for the entire State or Union Territory, as the case may be;**
  - (b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or regulations made thereunder:**

**Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.**

- (4) Whereon the completion of the period specified under sub-section (3), if the applicant does not receive any communication about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.”**

# REGISTRATION OF REAL ESTATE AGENTS

- “(5) Every real estate agent who is registered as per the provisions of this Act or the rules and regulations made hereunder, shall be granted a registration number by the Authority, which shall be quoted by the real estate agent in every sale facilitated by him under this Act.**
- (6) Every registration shall be valid for such period as may be prescribed, and shall be renewable for a period in such manner and on payment of such fee as may be prescribed.**
- (7) Where any real estate agent who has been granted registration under this Act commits breach of any of the conditions thereof or any other terms and conditions specified under this Act or any rules or regulations made thereunder, or where the Authority is satisfied that such registration has been secured by the real estate agent through misrepresentation or fraud, the Authority may, without prejudice to any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit.  
Provided that no such revocation or suspension shall be made by the Authority unless an opportunity of being heard has been given to the real estate agent.”**



# FUNCTIONS OF REAL ESTATE AGENTS

## Sec.10.

Every real estate agent registered under Section 9 shall –

- a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority;
- b) maintain and preserve such books of account, records and documents as may be prescribed.

# FUNCTIONS OF REAL ESTATE AGENTS

- c) not involve himself in any unfair trade practices, namely:**
  - (i) The practice of making any statement, whether orally or in writing or by visible representation which**
    - (A) Falsely represents that the services are of particular standard or grade;**
    - (B) Represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;**
    - (C) Makes a false or misleading representation concerning the services;**
  - (ii) Permitting the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered;**
- d) facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building, as the case may be;**
- e) discharge such other functions as may be prescribed.**

# PENALTIES - REAL ESTATE AGENTS

## **Sec.62.**

**Penalty for non-registration and contravention under sections 9 and 10.**

**If any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10, he shall be liable to a penalty of Rs.10,000 for every day during which such default continues, which may cumulatively extend up to 5% per cent of the cost of plot, apartment or buildings, as the case may be, of the real estate project for which the sale or purchase has been facilitated as determined by the Authority.**

# PENALTIES - REAL ESTATE AGENTS

▶ **“Sec.65.**

**Penalty for failure to comply with orders of Authority by real estate agent.**

**If any real estate agent, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent of the estimated cost of plot, apartment or building as the case may be, of the real estate project, for which the sale or purchase has been facilitated and as determined by the Authority.”**

# PENALTIES - REAL ESTATE AGENTS

▶ **“Sec.66.**

**Penalty for failure to comply with orders of Appellate Tribunal by real estate agent. If any real estate agent, who fails to comply with , or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to one year or with fine for every day during which such default continues which may cumulatively extend up to 10% of the estimated cost of plot, apartment or building, as the case may be of the real estate project, for which the sale or purchase has been facilitated or with both.”**

# OTHER SECTIONS

- ▶ **Sec. 3(1) - Registration of Real Estate Project with Authority**
  - ▶ **No Promoter shall advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building in a real estate project in a planning area without registering it.**
  - ▶ **Ongoing projects to be registered in 3 months.**
  - ▶ **If land area is upto 500 sq. mtr. or upto 8 apartments in all phases – No registration.**
  - ▶ **If completion Certificate received no registration required.**
  - ▶ **If re-development with no sale, no registration required.**

# REAL ESTATE PROJECTS.

## ▶ Sec.4.

**Application for registration of Real Estate projects.**

**Promoter shall apply to Authority for registration of the project.**

**Promoter shall give details of:**

- ▶ Enterprise, i.e. Partnership firm, Company etc.
- ▶ Projects launched in last 5 years, whether completed or being developed;
- ▶ Authenticated copy of Approvals and Commencement Certificate.
- ▶ Sanction, Plans and verifications;
- ▶ Plan of development work and facilities including fire fighting, drinking water, emergency evacuation etc.
- ▶ Proforma of Allotment Letter, Agreement for Sale and Conveyance Deed.
- ▶ Number, types and carpet area of flats, balconies, terraces etc.
- ▶ Number and area of garages;
- ▶ Names and addresses of Estate Agents etc;
- ▶ Names and addresses of Contractors, Architects and structural Engineers;
- ▶ Declaration as to Title.

# OTHER SECTIONS

- ▶ **Sec. 5 - Grant of Registration –**  
On application Authority shall in 30 days, grant registration, provide a registration number and a Login Id and Password to access website and create web page or reject.



# OTHER SECTIONS

- ▶ **Sec. 17 - Conveyance by Promoter**  
Within 3 months from the date of OC.
- ▶ **Sec. 18 - Return of amount and compensation**  
Return of amount and compensation if promoter fails to complete or give possession.  
Allottee may claim refund and interest and compensation.  
If Allottee continues he will get interest for delay.
- ▶ **Sec. 19 - Rights and duties of allottees**  
Rights: Information, regarding plans and specifications.  
Time Schedule  
Refund  
Documents and Plans  
Must pay installments  
Must pay, if delay.

# OTHER SECTIONS

- ▶ **Sec. 20 - Establishment of Authority**
- ▶ **Sec. 31 - Filing of complaints with the Authority or adjudicating officer**  
Any aggrieved person (including association) may file a complaint for violation or contravention against promoter allottee or real estate agent.
- ▶ **Sec. 32 - Functions of Authority for promotion of real estate sector**  
Facilitate growth and promotion of healthy transparent, efficient and competitive real estate factor.

# OTHER SECTIONS

- ▶ **Functions of Authorities - Sec. 34**
  - ▶ To register and regulate real estate projects.
  - ▶ To maintain website and data base for public viewing, including photos of estate agents.
  - ▶ To ensure compliance.
  
- ▶ **Sec. 35 - Power of Authority to call for information and conduct investigations, including books of account.**

# OTHER SECTIONS

- ▶ **Sec 41 – 42**  
Establishing advisory council, with representatives of ministries etc.
- ▶ **Sec 43-44**  
Real Estate Appellate Tribunal  
30 % of penalty to be deposited.  
Tribunal shall try and decide in 60 days.
- ▶ **Sec 59-72**  
Offences, Penalties etc.  
On Promoter – 10% of estimated cost of project  
If he does not comply with orders, upto 10% more plus 3 years etc.

# OTHER SECTIONS

- ▶ **Sec 79 – Bar on jurisdiction**  
No civil court shall have jurisdiction or shall grant injunction.
- ▶ **Sec 80 – Cognisance of Offence**  
No Court shall take cognisance of an offence save on a complaint made by Authority.
- ▶ **Sec 92**  
Maharashtra Housing (Regulation and Development) Act, 2012 is hereby repealed.  
(ie. MOFA continues for now)

# DISCLAIMER

*The material contained herein is brief and not comprehensive, contains certain generalisations and is only illustrative.*

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*THANK YOU !*